UNITED STATES PATENT AND TRADEMARK OFFICE

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MYERS BIGEL, P.A.
PO BOX 37428
RALEIGH, NC 27627

EXAMINER
BUCKNOR, OLANREWAJU J

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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Ex parte ROLF BLOM, PER-OLOF NERBRANT, GORAN SELANDER,
and STEINAR DAHLIN

_____

Appeal 2016-003322
Application 13/505,358[1]
Technology Center 2400

_____

Before BRUCE R. WINSOR, DANIEL N. FISHMAN, and
KEVIN C. TROCK, *Administrative Patent Judges.*

TROCK, *Administrative Patent Judge.*

DECISION ON APPEAL

Introduction

Appellants seek review under 35 U.S.C. § 134(a) from the Examiner's
Final Rejection of claims 1–12 and 14–17.[2] We have jurisdiction under 35
U.S.C. § 6(b).

We AFFIRM.

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[1] Appellants indicate the Real Party in Interest is Telefonaktiebolaget L M
Ericsson. App. Br. 1.

[2] Claim 13 is cancelled. App. Br. 10.

Invention

The claims are directed to providing flexible control of rendering of protected media comprising first and second content objects. Abstract.

Exemplary Claim

Exemplary claim 1 is reproduced below with disputed limitations emphasized:

1.   A device for rendering of protected content compiled from a first dependent content part and at least a second independent content part, the device including means for accessing the first dependent content part and the at least second content independent content part, wherein the at least the second independent content part comprises executable software for establishing a user dialogue, the device comprising:

means for implementing a first dependent rights object and at least a second independent rights object;

means for enforcing rights according to the implemented first and at least second rights objects;

means for storing instructions associated with the first dependent rights object; and

means for determining, at least partly in dependence of the instructions, conditions for rendering of the first dependent content part, the conditions enforcing rendering of the at least a second independent content part as requirement for complete rendering of the first dependent content part,

wherein the executable software at least in part establishes a user dialogue wherein user input is provided affecting generation of a key for rendering of the first dependent content part.

Rejections

Claims 1–12 and 14–17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Vogler et al. (US 2005/0033700 A1; Feb. 10, 2005) and Dewhurst (GB 2,416,881 A; Feb. 8, 2006).

ANALYSIS

We have reviewed the Examiner's rejections and the evidence of record in light of Appellants' arguments that the Examiner has erred. We disagree with Appellants' arguments and conclusions. We adopt as our own: (1) the findings and reasons set forth by the Examiner in the Office Action from which this appeal is taken and (2) the findings and reasons set forth in the Examiner's Answer. We concur with the conclusions reached by the Examiner and further highlight specific findings and argument for emphasis as follows.

Independent Claims 1, 5

Appellants contend the Examiner erred in rejecting independent claims 1 and 5 because the combination of Vogler and Dewhurst does not teach or suggest "wherein the executable software at least in part establishes a user dialogue wherein user input is provided affecting generation of a key for rendering of the first dependent content part," as recited in independent claim 1 and similarly recited in independent claim 5. App. Br. 3–6; Reply Br. 2–4. Appellants argue that nothing in Vogler or Dewhurst teaches or suggests establishing a user dialog as required in claims 1 and 5. App. Br. 5. Appellants also argue that the advertisements taught in Vogler must be rendered before the protected content is rendered whereas Appellants' inventive concept allows a user to control the rendering of the dependent

content, for example, without any preceding rendering of independent content. App. Br. 5; Reply Br. 2–3.

The Examiner finds, however, that Vogler teaches both dependent and independent content as advertisements (independent content) that are combined with digital media content (dependent content). Ans. 5. The Examiner finds that Vogler teaches that a user has a choice to buy (enter a dialogue for) a full-price online video (dependent content) without any advertisements (independent content), or that a user may purchase the online video at a reduced price, but with the caveat that several advertisements will be interspersed in the content. Ans. 4 (citing Vogel ¶¶ 16–17); Final Act. 7. If the user chooses to purchase the video at the reduced price, the Examiner finds, then the user must render each advertisement to view the subsequent portion of the desired video. *Id.* In this way, the Examiner finds, Vogel teaches that the user may choose whether to pay the full price for the video to avoid having to view (render) the advertisements (independent content) or whether to pay a reduced price and be required to view the advertisements. Ans. 4, 7.

Appellants are, thus, incorrect when they argue that Vogler *always* requires rendering of advertisements (independent content) before the desired video (dependent content) can be viewed. Moreover, contrary to Appellants' argument, claims 1 and 5 do not recite "without any preceding rendering of independent content."

Accordingly, we are not persuaded the Examiner erred in finding the combination of Vogel and Dewhurst teaches or suggests "wherein the executable software at least in part establishes a user dialogue wherein user input is provided affecting generation of a key for rendering of the first

dependent content part," as recited in independent claim 1 and similarly recited in independent claim 5. Therefore, we sustain the Examiner's rejection of claims 1 and 5.

Dependent Claims 16, 17

Claims 16 and 17 depend from claims 1 and 5, respectively, each reciting "wherein rendering of the second independent content part is not required." Appellants contend the Examiner erred rejecting dependent claims 16 and 17 because Vogler teaches that advertisements must first be rendered before the digital content can be accessed. App. Br. 11–12. As discussed *supra*, however, the Examiner finds, and we agree, Vogler teaches that a user may avoid rendering advertisements (independent content) by paying full price for desired digital content. Ans. 4, 7. Accordingly, we are not persuaded the Examiner erred rejecting dependent claims 16 and 17 by finding that Vogler teaches or suggests "wherein rendering of the second independent content part is not required." Therefore, we sustain the Examiner's rejection of claims 16 and 17.

Remaining Claims 2–4, 6–12, 14, and 15

Appellants have not presented separate, substantive arguments with respect to claims 2–4, 6–12, 14, and 15. *See* App. Br. 3–6. Therefore, we are not persuaded the Examiner erred in rejecting these claims. *See* 37 C.F.R. § 41.37(c)(1)(iv) (2014); *In re Lovin*, 652 F.3d 1349, 1356 (Fed. Cir. 2011) ("We conclude that the Board has reasonably interpreted Rule 41.37 to require applicants to articulate more substantive arguments if they wish for individual claims to be treated separately."). Accordingly, we sustain the Examiner's rejection of claims 2–4, 6–12, 14, and 15.

DECISION

We AFFIRM the Examiner's rejection of claims 1–12 and 14–17.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED